

<div>CITY OF SAN JOSÉ, CALIFORNIA Department of Planning, Building and Code Enforcement 801 North First Street, Room 400 San José, California 95110-1795</div> <div>STAFF REPORT</div>	Hearing Date/Agenda Number P.C. 11/19/03      Item: 3.c.	
	File Number SF 03-028	
	Application Type Single-Family House Permit – Category III / Tree Removal Permit	
	Council District 3	Historic District Naglee Park
	Planning Area Central	SNI University
	Assessor's Parcel Number(s) 467-50-020	
PROJECT DESCRIPTION		
Completed by: Lee Butler		
Location: East side of South 13th Street approximately 100 feet southerly of East San Salvador Street (408 South 13 <sup>th</sup> Street)		
Gross Acreage: 0.15	Net Acreage: 0.15	Net Density: 6.8 DU/AC
Existing Zoning: R-1-8 Single Family Residence	Existing Use: Single-Family Residence	
Proposed Zoning: No Change	Proposed Use: Single-Family Residence & Removal of Ordinance Sized Avocado Tree	
GENERAL PLAN		
Completed by: FLB		
Land Use/Transportation Diagram Designation Medium Low Density Residential (8 DU/AC)		Project Conformance: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> See Analysis and Recommendations
SURROUNDING LAND USES AND ZONING		
Completed by: FLB		
North:	Single Family Residence	R-1-8 Single Family Residence
East:	Single Family Residence	R-1-8 Single Family Residence
South:	Single Family Residence	R-1-8 Single Family Residence
West:	Single Family Residence	R-1-8 Single Family Residence
ENVIRONMENTAL STATUS		
Completed by: FLB		
<input type="checkbox"/> Environmental Impact Report found complete <input type="checkbox"/> Negative Declaration circulated on <input type="checkbox"/> Negative Declaration adopted on		<input checked="" type="checkbox"/> Exempt <input type="checkbox"/> Environmental Review Incomplete
FILE HISTORY		
Completed by: FLB		
Annexation Title: Original City		Date: March 27, 1850
PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION		
<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Approval with Conditions <input type="checkbox"/> Denial <input type="checkbox"/> Uphold Director's Decision	Date: _____	Approved by: _____ <input type="checkbox"/> Action <input checked="" type="checkbox"/> Recommendation
APPLICANT/OWNER		

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PUBLIC AGENCY COMMENTS RECEIVED

Completed by: FLB

Department of Public Works

None received.

Other Departments and Agencies

None received

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GENERAL CORRESPONDENCE

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None received.

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ANALYSIS AND RECOMMENDATIONS

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## BACKGROUND

The applicant is requesting a Single-Family House Permit to allow the addition of 514 square feet of first floor area and 422 square feet of second floor area to an existing 2,152 square foot two story single family residence located in the R-1-8 Single Family Residence District at 408 South 13<sup>th</sup> Street. The proposed conversions will result in a 2-story residence with a total square footage of 3,088 square feet. A 420 square foot exterior deck and associated trellis are proposed as an attachment to the new addition at the level of the existing first floor (5 feet above grade), and a 69 square foot exterior deck is proposed along the south side of the second floor addition area. The removal of an Avocado tree, measuring 58” in circumference and located in the vicinity of the proposed home addition, is also associated with this request. The Zoning Code requires a Single-Family House Permit for a new or expanded residence where the residence:

1. Results in a Floor Area Ratio<sup>1</sup> (F.A.R.) of greater than 0.45; or
2. Exceeds two stories or 30 feet; or
3. Is a designated City Landmark, listed on the Historic Resources Inventory, or located in a Historic District or Conservation Area.

A Single-Family House Permit is required for this house addition because the F.A.R. exceeds 0.45, the existing and proposed residence is greater than 30 feet in height, and the structure is listed as an Identified Structure within the Naglee Park City Conservation Area on the Historic Resources Inventory. The proposed conversion will increase the existing F.A.R. from 0.34 to 0.48 on this 0.15 gross acre site. The existing maximum height of 33 feet will remain unchanged, however, the proposed addition will extend the 33-foot high roof peak further towards the rear of the property. The structure will remain unchanged at 2 stories, and no additional bedrooms will be added. The Zoning Code specifies that the City Council, following a recommendation from the Planning Commission, is the decision-making body for Single-Family House Permits where the proposed house or expansion exceeds 30 feet in height.

The site is surrounded by single-family residential uses to the north, south, west, and east.

## ENVIRONMENTAL REVIEW

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<sup>1</sup> The Floor Area Ratio (FAR) is the ratio of the total habitable square footage of the house, excluding the garage and basement, to the total square footage of the lot.

The proposed project is exempt from environmental review under Section 15301 of the California Environmental Quality Act Guidelines because it consists of a minor alteration of an existing single-family structure.

## GENERAL PLAN CONFORMANCE

The site has a General Plan Land Use/Transportation Diagram designation of Medium Low Density Residential (8 DU/AC), and the existing single-family residential use is consistent with this designation.

## ANALYSIS

The primary issues for this proposal are conformance with the Zoning Ordinance, the Secretary of the Interior's Standards for Rehabilitation of Historic Structures, and the *Single-Family Design Guidelines*.

### Zoning Code Conformance

The R-1-8 Single Family Residence Zoning District allows up to a maximum of 2.5 stories. Section 20.200.120 of the San José Municipal Code defines a basement as "that portion of a building below grade situate between grade and the upper surface of the floor next above, except that if said upper surface of the floor next above is more than six (6) feet above grade, such portion shall be deemed to be a story of the building rather than a cellar or basement." Because the elevation of the first finished floor does not exceed 6 feet above grade, the lowest level of the residence proposed for improvement with this permit is considered a basement and not a story. No conditioned space is proposed above the second floor, therefore, the proposed structure is 2 stories and meets the maximum number of stories allowed in the R-1-8 Single Family Residence Zoning District.

The Zoning Code requires 2 covered parking spaces for a single-family detached residence, and there is an existing 2 car detached garage at the rear southeast corner of the property.

The Director of Planning must approve the removal of any ordinance sized tree measuring 58 inches in circumference at 24 inches above grade. The proposed addition would result in the removal of a significant portion of the root structure of the Avocado tree proposed for removal. Removal of the root structure could result in the death of the tree. Additionally, if the tree were to remain, both the root growth and the canopy of the tree would potentially cause damage to the proposed structure. For these reasons, staff is supporting the removal of the tree, and the proposed Single Family House Permit has been structured to allow for its removal. The applicant shall replace the removed tree with two new 20 gallon Japanese Maple trees to be planted in the locations specified on the approved plan set.

### Conformance with the Secretary of the Interior's Standards

The only exterior changes proposed to the historic home occur at the rear area of the existing residence. The front façade will remain unchanged, helping to preserve the historic character of the structure in conformance with the Secretary of the Interior's Standards for Rehabilitation of Historic Structures. The Standards also require that "new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment." Wood siding, composition roof shingles, and window trims are proposed to match those on the existing

residence in materials and design. A detail band is shown along the proposed addition to distinguish the historical structure from the new addition. For continuity, the detail band extends through a small portion of the historical residence.

#### Conformance with Single-Family Design Guidelines

The existing structure and the work proposed are in substantial conformance with the City's *Single-Family Design Guidelines*. The overall height, along with the front and side setbacks of the structure, remain unchanged. The new addition area is minimally visible from the street, and matching roof slopes, siding, windows, and trim make the addition compatible with the existing structure. The architectural style of the proposed addition is consistent with that of the existing residence. The proposed second story balcony area is located on the south side of the proposed addition, where it will be adjacent to the driveway and setback over 15' from the closest side property line to the south. The front porch is to remain unchanged, retaining the orientation of the residence's entryway towards the street and encouraging neighborly contact. The existing detached garage is to remain setback over 100', adjacent to the rear property line. The proposed addition will enhance the residence without negatively affecting the character or pattern of development of the surrounding neighborhood.

#### **RECOMMENDATION**

The Planning staff recommends that the Planning Commission recommend approval of the requested Single-Family House Permit and the City Council adopt a resolution approving the project.

#### **FACTS**

The project site has a designation of Medium Low Density Residential (8 DU/AC) on the adopted *San José 2020 General Plan Land Use/Transportation Diagram*, and this project is consistent with this designation.

1. The project site at 408 South 13<sup>th</sup> Street is located in the R-1-8 Single-Family Residence Zoning District.
2. Under the provisions of Section 15301 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. The project will not have a significant adverse effect on the environment.
3. The project includes an addition of 514 square feet of first story floor area and an addition of 422 square feet of second story floor area resulting in a proposed Floor Area Ratio (FAR) of 0.48 as defined in the San José Municipal Code, Section 20.100.1020.
4. The existing single-family residence on the site is 33 feet in height. The proposed addition will extend the 33' high roof peak towards the rear of the property.
5. The existing and proposed single-family residence is two stories.
6. The existing single-family house is listed on the Historic Resources Inventory as an Identified Structure in the Naglee Park City Conservation Area.

7. In accordance with Part 9 of Chapter 20.100 of the San José Municipal Code, a Single-Family House Permit is required for this application because the addition results in an FAR of greater than 0.45, because new construction exceeds 30 feet in height, and because the structure is listed on the Historic Resources Inventory. The Zoning Code specifies that the City Council is the decision-making body for a Single-Family House Permit where the proposed house or addition is taller than 30 feet in height.
8. The Single Family Design Guidelines specify that the architectural style of a new addition or modification to an existing single-family house should be generally consistent with the architectural style of the existing dwelling.
9. The materials to be used for the new addition are compatible with those of the existing residence.
10. The project does not include demolition of 50 percent or more of the existing exterior walls as defined in San José Municipal Code 20.80.420.
11. The root structure of one ordinance sized tree, an Avocado tree measuring 58” in circumference at two feet above grade, will be affected by the proposed addition. The existing Avocado tree is located in close proximity to the area where the proposed addition is to be constructed.
12. The proposed addition results in a rear yard area of approximately 52’ long by 50’ wide. In conformance with Section 20.30.510 of the San José Municipal Code, the existing detached freestanding garage will not occupy more than 30% of the rear yard area.

## **ANALYSIS OF FACTS**

1. The project is consistent with the *General Plan/Transportation Land Use Diagram* designation of Medium Low Density Residential (8 DU/AC).
2. The proposed project is in compliance with the California Environmental Quality Act (CEQA).
3. A Single-Family House Permit is required, in accordance with Part 9 of Chapter 20.100, as the project proposes erection, construction, enlargement, placement or installation, or exterior alterations of a single-family house where the FAR exceeds 0.45, where the structure exceeds 30 feet in height, and where the structure is listed on the Historic Resources Inventory.
4. The proposed project is in conformance with the Secretary of the Interior’s Standards for Rehabilitation of Historic Structures.
5. The proposed project is in substantial conformance to the *Single-Family Design Guidelines*, adopted by the City Council on December 14, 1999.
6. The proposed addition would result in the removal of a significant portion of the root structure of the 58” circumference Avocado tree, and the root structure and the canopy of the Avocado tree would potentially damage the proposed addition if the tree were to remain in its current location.

## **FINDINGS**

1. The interrelationship between the orientation, location, and elevations of the proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious.
2. The orientation, location, and elevation of the proposed buildings and structures and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.
3. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on the adjacent property or properties.
4. The condition of the trees with respect to disease, danger of falling, proximity to existing or proposed structures, and/or interference with utility services is such that public health or safety requires removal in that the tree is in a location where it would potentially die from the partial removal of its root structure and in that the tree would potentially damage the proposed addition if it were to remain.

## **CONDITIONS**

1. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
2. **Building Permit.** Obtainment of a Building Permit is evidence of acceptance of all conditions specified in this document and the applicant's intent to fully comply with said conditions.
3. **Release of Permit.** No demolition of the structure may be implemented unless and until this Single-Family House Permit is released to the Building Division.
4. **Exterior Alterations.** No exterior alterations to the structure may be implemented unless and until this Single-family House Permit is released to the Building Division.
5. **Conformance with Plans.** Construction and development shall conform to approved Single Family House Permit Development plans entitled, "Addition & Remodel for: Jim & Bunny Ziegler" dated November 4, 2003, on file with the Department of Planning, Building and Code Enforcement and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04). Modification of the project plans prior to Final Inspection of the

Building Permit shall require additional permits as deemed necessary by the Director of Planning. Following Final Inspection of the Building Permit, modification of the structure shall conform to the permit requirements of Part 9 of Chapter 20.100 of the San José Municipal Code.

6. **Deadline for Commencing Construction.** This Single-family House Permit shall automatically expire one year from and after the date of issuance hereof by said Director if within such one-year period construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Single-family House Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to one year. The Permit Adjustment must be approved prior to the expiration of this Permit.
7. **Revocation.** This Single-family House Permit is subject to revocation for violation of any of its provisions or conditions.
8. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
9. **Acceptance.** The "Acceptance of Permit and Conditions" form shall be *signed, notarized, and returned* to the Department of Planning, Building and Code Enforcement within **60 days** from the date of issuance of permit. *Failure to do so will cause this permit to automatically expire regardless of any other expiration date contained in this permit.*
10. **Nuisance.** As required by Title 20 of the San José Municipal Code, construction on this site shall be conducted in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
11. **Construction Hours.** Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday and to the hours of 8:00 a.m. to 7:00 p.m. on Saturdays, Sundays and legal holidays, except that construction may occur at any hour within a totally enclosed building if such construction is not audible at the property line and does not result in a public or private nuisance.
12. **Tree Removals.** In conjunction with this Single Family House Permit, one (1) Avocado tree, measuring 58 inches in circumference at 24 inches above grade is authorized for removal, in conformance with the approved plan set. No other tree larger than 56 inches in circumference, at a height of 24 inches above the natural grade slope, shall be removed without a Tree Removal Permit issued by the Director of Planning.
13. **Replacement Trees.** The applicant shall replace the removed tree with two new 20-gallon Japanese Maple trees to be planted in the locations specified on the approved plan set.
14. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
  - a. *Construction Plans.* The permit file number, SF03-028, shall be printed on all construction plans submitted to the Building Division.
15. **Archaeology.** Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public

Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.

16. **Protection of Storm Drains.** No hazardous materials, paint, rinse water, or construction sediments or debris shall be allowed to enter the public right-of-way or any storm drain inlet. The storm drain system flows to the Bay.
17. **Recycling.** Scrap construction and demolition material should be recycled. Integrated Waste Management staff at 277-5533 can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.